

# MAYOR & COUNCIL AGENDA COVER SHEET

## MEETING DATE:

December 1, 2003

## CALL TO PODIUM:

Patricia Patula

## RESPONSIBLE STAFF:

Patricia Patula, Planner  
Trudy Schwarz, Community  
Planning Director

## AGENDA ITEM:

(please check one)

	Presentation
	Proclamation/Certificate
	Appointment
x	Joint Public Hearing
	Historic District
	Consent Item
	Ordinance
	Resolution
	Policy Discussion
	Work Session Discussion Item
	Other:

## PUBLIC HEARING HISTORY:

(Please complete this section if agenda item  
is a public hearing)

Introduced	NA
Advertised	11-12-03
	11-19-03
Hearing Date	12-1-03
Record Held Open	
Policy Discussion	

## TITLE:

JOINT PUBLIC HEARING  
T-359 Text Amendment  
Accessory Structures

## SUPPORTING BACKGROUND:

The precursor to this text amendment, T-354, was brought to joint public hearing on August 19, 2002. At the follow up work session on August 11, 2003, staff's revisions, based on the public's and Council/Planning Commission's input, resulted in a more stringent text amendment than what was originally proposed. Therefore, a new public hearing is required. There will be no further action on T-354, and it will become null and void.

T-359, the revised accessory structures text amendment now being presented, retains the same elements as agreed to at the August 11, 2003 work session. The details of the text amendment are summarized on Exhibit 2.

Per the City Council's request, the format of the ordinance has been revised and separates accessory uses from accessory structures. While this distinction does clarify the ordinance, it also results in a number of technical adjustments to bring uniformity to the text. This rearrangement does not affect the essence of the various parts of the ordinance.

Staff will give a brief synopsis of the text amendment.

### Attachments:

Index of Memoranda  
Exhibits

*Note: The Planning Commission will hold only one meeting during the month of December.*

## DESIRED OUTCOME:

Planning Com-record open 18 days, close Dec 19, 2003  
Planning Commission recommendation-Jan 7, 2004  
City Council-record open 32 days, close Jan 2, 2004  
Council-policy discussion Jan 19, 2004

Mayor and City Council  
Planning Commission  
Joint Public Hearing  
December 1, 2003

**INDEX OF MEMORANDA  
T-359  
ACCESSORY STRUCTURES**

Number	Exhibit
1	Application
2	Summary of Text Amendment
3	Draft Text Amendment
4	Request to place Notice of Public Hearing in the <i>Gaithersburg Gazette</i> issues of November 12 and 19, 2003
5	Notice of Public Hearing mailed to required parties
6	Article from <i>Gaithersburg Gazette</i> August 13, 2003
7	Memo to City Council/Planning Commission from Fred Felton, dated September 26, 2003
8	By Reference T-354

## TEXT AMENDMENT TO THE ZONING ORDINANCE

In accordance with Article VIII,  
Section 24-194, 195, 197, and 198 of the City Code

Application Number	<u>T-359</u>
Filing Date	<u>11-1-03</u>
P.C. Hearing	<u>Dec. 1, 2003</u>
M&C Hearing	<u>Dec. 1, 2003</u>
Decision	_____
Decision Date	_____

Application is hereby made to the

- ☐ City Planning Commission, or  
☒ Mayor and City Council

for a change in the text of the Zoning Ordinance of the City of Gaithersburg, Maryland.

This change involves Article \_\_\_\_\_, Section \_\_\_\_\_  
to be amended per the attached ordinance.

*See attached draft ordinance.*

Applicant/Staff Person Patricia Patula Date 11-1-03  
Address 31 South Summit Avenue, Gaithersburg, Md.



**City of Gaithersburg, Maryland**

**Text Amendment T-359  
Accessory Structures**

**SUMMARY**

This text amendment applies primarily to single family dwellings that are not in the MXD (Mixed Use Development) Zone. In townhouse developments, the accessory structures requirements remain the same. A summary of the proposed changes to the Zoning Ordinance are as follows:

- Accessory structures (excluding garages) shall be located only in the rear yard and the total of all accessory structures can not exceed 25 percent of the rear yard. The footprint can not exceed 50 percent of the primary structure. Structures less than 144 square feet shall be located not less than three (3) feet from any lot line. If 144 square feet or greater, they must be located at least ten (10) feet from the property line. They cannot exceed fifteen (15) feet in height
- The footprint of a detached garage must not exceed 50 percent of the footprint of the primary structure or a standard two-car garage not to exceed 576 square feet, whichever is greater. The garage cannot exceed fifteen (15) feet in height.
- Modifications to increase the footprint and height requirements of accessory structures and/or detached garages may be approved upon review by the Planning Commission.
- In lots created prior to October 14, 1958, garages may be located not less than two (2) feet from the property line if this is consistent with the design of the neighborhood.
- The clause referencing requirements for animal enclosures excludes household pets.
- These regulations are not applicable to the MXD Zoned communities since they have their own architectural guidelines.

**Key:**

Underlining

[    ]

New text added to current ordinance

Deleted from current ordinance



ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO AMEND CHAPTER 24 OF THE CITY CODE (CITY ZONING ORDINANCE), ARTICLE I, ENTITLED, "IN GENERAL," §24-1 ENTITLED, "DEFINITIONS," ARTICLE III, ENTITLED, "REGULATIONS APPLICABLE TO PARTICULAR ZONES," §24-22, §24-24, §24-28, §24-30, §24-43, §24-56, §24-66, §24-75, §24-102, §24-111, §24-117, §24-123, §24-136, §24-151, §24-160A, AND §24-160E.2, SO AS TO REDEFINE ACCESSORY STRUCTURES AND USES, ELIMINATE CERTAIN DEFINITIONS AND DEFINE CERTAIN TERMS, ELIMINATE REFERENCES RELATED TO SIGNS AS ACCESSORY STRUCTURES, AS WELL AS REVISE TERMINOLOGY AND REGULATIONS OF ACCESSORY USES AND STRUCTURES IN THE R-6, R-B, C-B, R-A, R-90, R-90 CLUSTER, RP-T, R-20, R-18, R-H, C-P, C-1, C-2, C-3, I-1, E-1, E-2 AND H-M ZONES, AND FURTHER TO AMEND ARTICLE IV, ENTITLED, "SUPPLEMENTARY ZONE REGULATIONS," §24-163 SO AS TO AMEND STANDARDS AND REQUIREMENTS AS TO ACCESSORY STRUCTURES AND GARAGES GENERALLY.

Text Amendment T-359

BE IT ORDAINED, by the Mayor and City Council of the City of Gaithersburg, Maryland, in public meeting assembled, that Chapter 24 of the City Code (City Zoning Ordinance), Article I, §24-1, Article III, §24-22, §24-24, §24-28, §24-30, §24-43, §24-56, §24-66, §24-75, §24-102, §24-111, §24-117, §24-123, §24-136, §24-151, §24-106A, §24-160E.2 and Article IV, §24-163, are hereby amended to read as follows:

ARTICLE I. IN GENERAL

Sec. 24-1. Definitions.

\*

\*

\*

Accessory structure. A structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure, and is not attached by any part of a common wall or common roof to the main building.

Accessory use [or structure]. A use [or structure] on the same lot with, and of a nature customarily incidental and subordinate to, the principal use [or structure] of the main building or lot.

\*

\*

\*

Automobile garage, private. An accessory building or portion of a main building designed, arranged or used for the housing of private motor vehicles, only one of which may be a commercial vehicle. No more than fifty (50) percent of the space in such a garage shall be used for housing vehicles other than those owned by occupants of the premises; except, that all of the space in a garage of one or two-car



capacity may be rented]. If the garage is calculated as part of required parking, it must provide unobstructed space for the vehicles.

Automobile parking garage. [public.] A building or portion thereof, other than an automobile salesroom, held out or used for housing of six (6) or more vehicles in connection with multi-family communities or industrial use or center. [where service or repair facilities, if any, are incidental to the principal use for storage.] Such garage shall not be considered an accessory use, nor shall it be used for the storage of dismantled or wrecked motor vehicles, parts hereof or junk.

\* \* \*

[Building, accessory. A building subordinate to and located on the same lot as the main building, the use of which is clearly incidental to that of the main building or to the use of the land, and which is not attached by any part of a common wall or common roof to the main building.]

Building coverage. See lot coverage.

\* \* \*

Building line. A line beyond which the foundation wall of the main building or any enclosed porch, vestibule or other enclosed portion of a building shall not project.

\* \* \*

Footprint. A designated area covered by the foundation wall of a structure or area of the base on which a structure stands or is supported.

\* \* \*

Lot coverage. The net lot area covered by buildings including accessory buildings and covered decks, porches, stoops, and steps. This does not relate to the impervious surface coverage considered in storm water management requirements.

\* \* \*

Swimming pool, public. A swimming pool or wading pool, or both, including buildings necessary or incidental thereto, operated for general public use.

\* \* \*

[Use, accessory. A use of a building, lot or portion thereof, which is customarily incidental and subordinate to the principal use of the main building or lot.]

\* \* \*

Yard. A required open space unoccupied and unobstructed by the main [any] structure or portion thereof [of a structure]; subject to height limitations as indicated herein.

ARTICLE III. REGULATIONS APPLICABLE TO PARTICULAR ZONES

DIVISION 1A. GENERALLY

Sec. 24-22. Permitted and special exception uses.

(b) ~~[Residential zones.]~~ R-6 Zone.

Use	Zone R-6
Accessory <del>[buildings]</del> <u>structures</u> and uses <sup>1</sup>	P

<sup>1</sup> Subject to the provisions of Article IV, §24-163 and §24-24 (5) of this chapter.

(c) Buffer zones

Use	Zone RB	Zone CB
Accessory <del>[buildings]</del> <u>structures</u> and uses	P <sup>1</sup>	P <sup>1</sup>

<sup>1</sup> Accessory structures in these zones are subject to the provisions of §24-24(5) and §24-163. [Notwithstanding the requirements in §24-163, accessory buildings in this zone shall be located in a rear yard (except garages and carports); shall not be located within three (3) feet of any side or rear lot line;] and shall not exceed twenty (20) percent of the maximum allowable building coverage.

DIVISION 1. RA ZONE, LOW DENSITY RESIDENTIAL

Sec. 24-24. Uses permitted by right.

The following uses are permitted by right:

- [(5) Accessory uses and structures, including, but not limited to, home based businesses authorized pursuant to Article X, Chapter 24 of this Code; and private swimming pools.
- (6) Child or elderly day care facilities in single-family detached dwellings or other buildings accommodating not more than eight (8) individuals.]
- (5) Accessory uses:
  - (a) The renting of rooms to not more than two (2) persons by the occupant of a dwelling.
  - (b) Home based businesses authorized pursuant to Article X, Chapter 24 of this Code.
  - (c) Child or elderly day care facilities in single-family detached dwellings or other buildings accommodating not more than eight (8) individuals.
  - (d) Private swimming pool.
  - (e) Any use on the same lot or parcel as the primary use which is customarily incidental and subordinate to the principal or primary use.
- (6) Accessory structures must conform to requirements of §24-163 of this Code.

\* \* \*

## DIVISION 2. R-90 ZONE, MEDIUM DENSITY RESIDENTIAL

\* \* \*

### Sec. 24-28. Uses permitted by right.

The following uses are permitted by right in the R-90 Zone.

\* \* \*

- [(5) Accessory structures and uses, except nurseries, including:
  - (a) Home based businesses authorized pursuant to Article X, Chapter 24 of this Code.



- (b) The renting of rooms to not more than two (2) persons by the occupant of a dwelling, and the provision of table board for such persons.
- (c) Greenhouses, provided, that no products are sold.
- (d) Accessory structures containing less than one hundred twenty (120) square feet of floor area and limited to one story in height shall be exempt from the rear and side yard setback requirements; provided, that any such structure is located within the rear yard and no closer than three (3) feet from any lot line.]

(5) Accessory uses:

- (a) The renting of rooms to not more than two (2) persons by the occupant of a dwelling.
- (b) Home based businesses authorized pursuant to Article X, Chapter 24 of this Code.
- (c) Child or elderly day care facilities in single-family detached dwellings or other buildings accommodating not more than eight (8) individuals.
- (d) Greenhouses, provided that no products are sold.
- (e) Private swimming pools.
- (f) Any use on the same lot or parcel as the primary use which is customarily incidental and subordinate to the principal or primary use.

(6) Accessory structures must conform to requirements of §24-163 of this Code.

[[6]](7) Housing for the elderly, included in a conceptual plan as part of an approved annexation agreement with the city, subject to the following conditions:

\* \* \*

[[7]](8) Bed and breakfast subject to the requirements contained in §24-167B.

**Sec. 24-30. Cluster development.**

The following shall apply to cluster developments in the R-90 Zone:

\* \* \*

- (4) *Permitted uses.* The following uses shall be permitted in a cluster development:

\* \* \*

[(c) Accessory buildings and uses.]

(c) Accessory uses:

- (1) The renting of rooms to not more than two (2) persons by the occupant of a dwelling.
- (2) Home based businesses authorized pursuant to Article X, Chapter 24 of this Code.
- (3) Child or elderly day care facilities in single-family detached dwellings or other buildings accommodating not more than eight (8) individuals.
- (4) Community buildings and bath houses.
- (5) Any use on the same lot or parcel as the primary use which is customarily incidental and subordinate to the principal or primary use.

[(d) Community buildings and bath houses.]

(d) Accessory structures must conform to requirements in §24-163 of this Code.

\* \* \*

[(g) Child or elderly day care facilities as provided in the R-A Zone.]

[(h)](g) Bed and breakfast subject to the requirements contained in §24-167B.

\* \* \*

#### DIVISION 4. RP-T ZONE, MEDIUM DENSITY RESIDENTIAL

\* \* \*

#### **Sec. 24-43. Permitted uses.**

The following uses shall be permitted:

\* \* \*

[(3) Noncommercial recreation facilities primarily for use of residents of the project in which they are located.

(4) Community swimming pools.]

(3) Accessory uses:

(1) Home based businesses authorized pursuant to Article X, Chapter 24 of this Code.

(2) Child or elderly day care facilities in single family detached dwellings or duplexes accommodating not more than eight (8) individuals.

(3) Community swimming pools.

(4) Noncommercial recreation facilities primarily for use of residents of the project in which they are located.

(5) Any use on the same lot or parcel as the primary use which is customarily incidental and subordinate to the principal or primary use.

\* \* \*

(4) Accessory structures, if accessory to a townhouse form of development, shall occupy no greater than forty-eight (48) square feet of rear yard area. Accessory structures erected in other forms of development must adhere to the requirements of §24-163 of this Code.

\* \* \*

[(6) Signs.

a. One sign, not exceeding forty (40) square feet in area, may be erected on or adjacent to any dwelling unit, advertising that unit for sale or lease, and shall be removed not more than ten (10) days after that unit has been sold or leased.

b. One sign, not exceeding forty (40) square feet in area, may be erected at each entrance to a project, advertising the dwelling units contained therein for sale or lease and shall be removed not more than ten (10) days after all units have been sold or leased.]

[[7]](5) Satellite television antennas and towers, poles, antennas or other structures intended for use in connection with transmission or receipt of radio or television signals, or both, subject to the provisions of §24-167A of this Code.

[[8)] Accessory uses, including home based businesses authorized pursuant to Article X, Chapter 24 of this Code, and accessory structures.

(9) Child or elderly day care facilities in single-family detached dwellings or duplexes accommodating not more than eight (8) individuals.]

\* \* \*

[[10]](6) Bed and breakfast subject to the requirements contained in §24-167B.

[[11]](7) Public buildings and uses.

\* \* \*

#### DIVISION 5. R-20 ZONE, MEDIUM DENSITY RESIDENTIAL

\* \* \*

#### **Sec. 24-56. Uses permitted by right.**

The following uses are permitted by right in the R-20 Zone:

(1) All uses permitted in the RP-T Zone.

\* \* \*

[[5)] Accessory uses and structures including but not limited to:

(a) Accessory uses and structures permitted in the R-90 Zone.

(b) Business office for the administration of multiple-family dwellings containing more than twenty-four (24) dwelling units.

(c) Swimming pools for the exclusive use of the residents of the dwelling or dwellings located on the same parcel or lot.

(d) Home based businesses authorized pursuant to Article X, Chapter 24 of this Code.]

(5) Accessory uses:

- (a) The renting of rooms to not more than two (2) persons by the occupant of a dwelling.
- (b) Home based businesses authorized pursuant to Article X, Chapter 24 of this Code.
- (c) Child or elderly day care facilities in single-family detached dwelling units or duplexes accommodating not more than eight (8) individuals.
- (d) Business office, accessory to the main use, for the administration of multiple-family dwellings containing more than twenty-four (24) dwelling units.
- (e) Swimming pools for the exclusive use of the residents of the dwelling or dwellings located on the same parcel or lot.
- (f) Any use on the same lot or parcel as the primary use which is customarily incidental and subordinate to the principal or primary use.

[(6) Child or elderly day care facilities in single family detached dwelling units or duplexes accommodating not more than eight (8) individuals.]

(6) Accessory structures, if accessory to a townhouse form of development, shall occupy no greater than forty-eight (48) square feet of rear yard area. Accessory structures erected in other forms of development must adhere to the requirements of §24-163 of this Code.

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DIVISION 6. R-18 ZONE, MEDIUM DENSITY PLANNED RESIDENTIAL

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**Sec. 24-66. Permitted uses.**

The following uses shall be permitted in the R-18 Zone:

\* \* \*

[(4) Swimming pools, private or community, bath houses and community buildings.]

\* \* \*

[(5)](4) Churches and temples, but no related religious facilities such as seminaries and convents.

[(6)] Child day care centers accommodating not more than six (6) individuals.

(7) Temporary sales office and permanent management office for project.

(8) Home based businesses authorized pursuant to Article X, Chapter 24 of this Code.

(9) Accessory uses and structures shall be located in the rear yard only and, if accessory to a townhouse form of development, shall occupy no greater than forty-eight (48) square feet of rear yard area. Accessory structures erected in other forms of development must adhere to the requirements of §24-163 of the zoning ordinance.]

(5) Accessory uses:

(a) Home based businesses authorized pursuant to article X, Chapter 24 of this Code.

(b) Child day care centers accommodating not more than six (6) individuals.

(c) Temporary sales office and permanent management office for project.

(d) Swimming pools, private or community, bath houses and community buildings.

(e) Any use on the same lot or parcel as the primary use which is customarily incidental and subordinate to the principal or primary use.

(6) Accessory structures, if accessory to a townhouse form of development, shall occupy no greater than forty-eight (48) square feet of rear yard area. Accessory structures erected in other forms of development must adhere to the requirements of §24-163 of this Code

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[(10)](7) Satellite television antenna and towers, poles and antennas or other structures intended for use in connection with transmission or receipt of radio or television signals or both, subject to the provisions of §24-167A of this Code.

[(11)](8) Bed and breakfast subject to the requirements contained in §24167B.

## DIVISION 7. R-H ZONE, HIGH DENSITY RESIDENTIAL

### Sec. 24-75. Permitted uses.

The following uses shall be permitted in the R-H Zone:

\* \* \*

- [[3)] Recreational facilities for the use of residents of dwellings located in the same project.]
- [[4)](3) Personal service businesses such as barbershops, beauty shops, valet shops, newsstands and snack bars, and office for physicians, dentists, attorneys, accountants, real estate brokers or insurance brokers. Such uses may only be located on the first two (2) stories of buildings containing more than three (3) stories and they may have no exterior entrances open to the public or signs visible from outside of the building.
- [[5)](4) Restaurants (Class C) that are incidental to and located within the same structure.
- [[6)](5) Satellite television antennas and towers, poles, antennas or other structures intended for use in connection with transmission or receipt of radio or television signals, or both, subject to the provision of §24-167A of this code.
- [[7)] Home based business authorized pursuant to Article X, Chapter 24 of this Code.
- (8) Accessory uses and structures shall be located in the rear yard only and, if accessory to a townhouse form of development, shall occupy no greater than forty-eight (48) square feet of rear yard area. Accessory structures erected in other forms of development must adhere to the requirements of §24-163 of the zoning ordinance.]
- (6) Accessory uses:
  - a) Home based businesses authorized pursuant to article X, Chapter 24 of this Code.
  - b) Recreational facilities for the use of residents of dwellings located in the same project.
  - c) Any use on the same lot or parcel as the primary use which is customarily incidental and subordinate to the principal or primary use.
- (7) Accessory structures, if accessory to a townhouse form of development, shall occupy no greater than forty-eight (48) square feet of rear yard

area. Accessory structures erected in other forms of development must adhere to the requirements of §24-163 of this Code.

[(9)](8) Bed and breakfast subject to the requirements contained in §24-167B.

[(10)](9) Public buildings and uses.

[(11)](10) Telecommunications facilities located entirely within an existing structure or located on the rooftop of an existing structure other than a single-family dwelling unit, subject to the requirements of §24-167A(C)(1).

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#### DIVISION 10. C-P ZONE, COMMERCIAL OFFICE PARK

##### **Sec.24-102. Uses.**

No building, structure or land shall be used and no building or structure shall be hereafter erected, structurally altered, enlarged or maintained in the C-P Zone, except for one or more of the following uses:

##### *A. Uses permitted by right.*

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(2) Accessory uses and structures [and uses] in compliance with §24-163 of this Code.

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#### DIVISION 11. C-1 ZONE, LOCAL COMMERCIAL

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##### **Sec. 24-111. Uses permitted by right.**

The following uses are permitted by right in the C-1 Zone:

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(7) Accessory uses and structures in compliance with §24-163 of this Code.

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#### DIVISION 12. C-2 ZONE, GENERAL COMMERCIAL

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**Sec. 24-117. Uses permitted by right.**

The following uses are permitted by right in the C-2 Zone:

\* \* \*

- (14) Accessory uses and structures [and uses, including but not limited to on-site signs permitted in C-1 Zone; except, that signs shall not exceed in the aggregate fifteen (15) square feet of area for each ten (10) linear feet of street frontage] in compliance with §24-163 of this Code.

\* \* \*

**DIVISION 13. C-3 ZONE, HIGHWAY COMMERCIAL**

**Sec. 24-123. Permitted uses.**

The following uses are permitted in the C-3 Zone:

\* \* \*

- (5) Accessory structures must conform to requirements of §24-163 of this Code.

\* \* \*

**DIVISION 14. I-1 ZONE, LIGHT INDUSTRIAL**

\* \* \*

**Sec. 24-136. Uses permitted by right.**

The following uses are permitted by right in the I-1 Zone:

\* \* \*

**H. Other Uses**

- (1) Accessory uses [and structures, including, but not limited to]:

:

- (a) Retail sales of products manufactured on the premises.
- (b) Living quarters for owners, caretakers or watchmen and their families.
- (c) Any use on the same lot or parcel as the primary use which is customarily incidental and subordinate to the principal or primary use.

(2) Accessory structures must conform to requirement of §24-163 of this Code.

[(2)](3) Agricultural uses.

[(3)](4) Bed and breakfast, subject to the requirements contained in §24-167B.

[(4)](5) Off-street parking.

[(5)](6) Pipelines.

[(6)](7) Public buildings and uses.

[(7)](8) Satellite television antennas and towers, poles, antennas or other structures intended for use in connection with transmission or receipt of radio or television signals, or both, subject to the provisions of §24-167A of this Code.

\* \* \*

#### DIVISION 17. E-1 ZONE, URBAN EMPLOYMENT

##### Sec. 24-151. Permitted uses.

The following uses are permitted in the E-1 Zone:

\* \* \*

(18) Accessory uses on the same lot or parcel as the primary use which is customarily incidental and subordinate to the principal or primary use.

(19) Accessory structures must conform to requirements of §24-163 of this Code.

\* \* \*

#### DIVISION 18. E-2 ZONE, MODERATE INTENSITY INDUSTRIAL PARK

\* \* \*

**Sec. 24-160A. Permitted uses.**

- (1) all uses permitted by right in the E-1 Zone, except general offices.
- (2) Ambulance or rescue squads, publicly supported.
- (3) Bed and breakfast subject to the requirements contained in §24-167B.
- (4) Communications centers.
- (5) Fire stations.
- (6) Hospitals, veterinary.
- (7) Laboratories.
- (8) Recreational facilities, primarily for the use of employees, provided such use does not adjoin any street which provides principal access to the principal use or user served.

[Signs, in accordance with city sign regulations.]

- (9) Trade, artistic and technical schools.

[Accessory buildings and uses.]

- (10) Accessory uses on the same lot or parcel as the primary use which is customarily incidental and subordinate to the principal or primary use.
- (11) Accessory structures in compliance with §24-163 of this Code.
- (12) Telecommunications facilities located entirely within an existing structure or located on the rooftop of an existing structure other than a single-family dwelling unit, subject to the requirements to §24-167A(C)(1).

\* \* \*

**DIVISION 20. H-M ZONE, HOTEL-MOTEL**

\* \* \*

**Sec. 24-160E.2. Uses and special exceptions allowed.**

- (a) The following uses are permitted uses in [this zone] the H-M Zone:

[Accessory buildings and uses.]

- (1) Accessory uses on the same lot or parcel as the primary use which is customarily incidental and subordinate to the principal or primary use.
- (2) Accessory structures must conform to requirements of §24-163 of this Code.
- (3) Banks and financial institutions.
- (4) Bed and breakfast subject to the requirements contained in §24-167B.
- (5) Eating and drinking establishments, excluding a drive-in.
- (6) Motels.
- (7) Hotels, full service.
- (8) Hotel, limited service.
- (9) Hotel, extended stay.
- (10) Parking of motor vehicles, off-street, in connection with any use permitted.
- (11) Publicly owned or publicly operated uses.
- (12) Retail sales and personal services, subject to restrictions in §24-160E.3(G).

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#### ARTICLE IV. SUPPLEMENTARY ZONE REGULATIONS

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\*

#### **Sec. 24-163. Accessory [buildings and] structures and garages.**

(a) Accessory structures. Any accessory [building or] structure, as defined in §24-1, with the exception of a garage, shall be located only in the rear yard. [and the] The total ground area of all accessory [buildings and] structures shall occupy no more than twenty-five (25) percent of the rear yard. Except for fences, on all residentially-zoned land accessory structures less than 144 square feet of floor area shall not be less than three (3) feet from any lot line unless allowed by a specific zone. Accessory [buildings and] structures 144 square feet of floor area or greater shall not be less than ten (10) feet from any side or rear lot line [;]. [provided however, that] In cases where an accessory [building,] structure, enclosure, coop or run or any part thereof is used for the housing, shelter or sale of animals or fowl, other than a

household pet, said structure shall be at least twenty-five (25) feet from any [interior] side or rear lot line and at least seventy-five (75) feet from any existing dwelling on an adjoining lot, except for fences on all residentially-zoned land. The footprint of an accessory structure must not be larger than fifty (50) percent of the footprint of the primary structure, except garages as noted in §24-163(b), nor can the height exceed fifteen (15) feet, unless approved by the Planning Commission. [Garages may be located in any front, side or rear yard area, but may only be located in a setback restriction area when they are part of a comprehensive design theme for a subdivision and are shown on an approved site development plan.]

(b) Garages, as accessory structures in residential zones:

- (1) Garages, as accessory structures, are those that are detached structures or attached to the main house only by a breezeway.
- (2) Garages shall not be less than ten (10) feet from any side or rear lot line.
- (3) Garages may also be located in any front or side yard area, and/or in a setback restriction area when they are part of a comprehensive design theme for a subdivision and are shown on an approved site development plan.
- (4) The footprint of the garage must not exceed fifty (50) percent of the footprint of the primary structure or a standard size two-car garage not to exceed 576 square feet, whichever is greater, nor must the height exceed fifteen (15) feet unless approved by the Planning Commission. In lots created prior to October 14, 1958, garages may be located not less than two (2) feet from the property line if this is consistent with the design of the neighborhood.

(c) These restrictions do not apply to Schematic Development plans, final site plans or other plans for an approved residential community in the MXD (Mixed Use Development) Zone.

ADOPTED by the City Council of Gaithersburg, Maryland, this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

DELIVERED to the Mayor of the City of Gaithersburg, Maryland this \_\_\_\_\_ day  
of \_\_\_\_\_, 2003. APPROVED/VETOED by the Mayor of the City of  
Gaithersburg, Maryland this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

\_\_\_\_\_  
SIDNEY KATZ, Mayor

THIS IS TO CERTIFY that the foregoing  
Ordinance was adopted by the City  
Council of Gaithersburg, in public  
meeting assembled, on the \_\_\_\_\_ day  
of \_\_\_\_\_, 2003 and the  
same was APPROVED/VETOED by the  
Mayor of the City of Gaithersburg on the  
\_\_\_\_\_ day of \_\_\_\_\_, 2003.  
This Ordinance will become effective on  
the \_\_\_\_\_ day of \_\_\_\_\_, 2003.

\_\_\_\_\_  
DAVID B. HUMPTON, City Manager

SHARED\PLANCODE\TEXT AMENDMENTS\T-359\DRAFT FINAL



November 11, 2003

Karey Major, Law Section  
The Gaithersburg Gazette  
P.O. Caller 6006  
Gaithersburg, Maryland 20884

Dear Karey:

Please publish the following legal advertisement in the November 12 and 19, 2003, issues of the *Gaithersburg Gazette*.

Sincerely,

*Patricia Patula*

Patricia Patula, Planner  
Planning and Code Administration

ASSIGN CODE: T-359 Acct# 133649

### NOTICE OF PUBLIC HEARING

The Mayor and Council and Planning Commission of the City of Gaithersburg will conduct a joint public hearing on T-359, filed by Patricia Patula for the City of Gaithersburg, on

**MONDAY  
DECEMBER 1, 2003  
AT 7:30 P.M.**

or as soon thereafter as this matter can be heard in the Council Chambers at 31 South Summit Avenue, Gaithersburg, Maryland.

The application requests amendment of Chapter 24 of the City Code (City Zoning Ordinance), Article I, entitled "In General," §24-1 entitled, "Definitions," Article III, entitled, "Regulations Applicable to Particular Zones," §24-22, §24-24, §24-28, §24-30, §24-43, §24-56, §24-66, §24-75, §24-102, §24-111, §24-117, §24-123, §24-136, §24-151, §24-160A, and §24-160E.2, so as to redefine accessory structures and uses, eliminate certain definitions and define certain terms, eliminate references related to signs as accessory structures, as well as revise terminology and regulations of accessory uses and structures in the R-6, R-B, C-B, R-A, R-90, R-90 Cluster, RP-T, R-20, R-18, R-H, C-P, C-1, C-2, C-3, I-1, E-1, E-2, and H-M Zones, and further to amend Article IV entitled, "Supplementary Zone Regulations," §24-163 so as to amend standards and requirements as to accessory structures and garages generally.

Further information may be obtained from the Planning and Code Administration Department at City Hall, 31 South Summit Avenue, between the hours of 8 a.m. and 5 p.m., Monday through Friday.

Patricia Patula, Planner  
Planning and Code Administration  
pp/mg

City of Gaithersburg • 31 South Summit Avenue, Gaithersburg, Maryland 20877-2098  
301-258-6300 • FAX 301-948-6149 • TTY 301-258-6430 • cityhall@ci.gaithersburg.md.us • www.ci.gaithersburg.md.us

MAYOR  
Sidney A. Katz

COUNCIL MEMBERS  
Stanley J. Alster  
Geraldine E. Edens  
Henry F. Marraffa, Jr.  
John B. Schlichting  
Ann T. Somerset

CITY MANAGER  
David B. Humpton





**Gaithersburg**  
A CHARACTER COUNTS! CITY

CITY OF GAITHERSBURG  
31 South Summit Avenue  
Gaithersburg, Maryland 20877  
Telephone: 301-258-6330

**NOTICE OF JOINT PUBLIC HEARING**

The City of Gaithersburg Mayor and Council and Planning Commission will conduct a public hearing at the time and place noted below.

**Meeting:** MAYOR AND CITY COUNCIL  
**Application Type:** TEXT AMENDMENT  
**File Number:** T-359  
**Applicant:** PATRICIA PATULA, FOR THE MAYOR & CITY COUNCIL  
**Day/Date/Time:** MONDAY, DECEMBER 1, 2003, AT 7:30 P.M.  
**Place:** COUNCIL CHAMBERS, GAITHERSBURG CITY HALL  
31 SOUTH SUMMIT AVENUE

**\*\*\*IMPORTANT\*\*\***

This is a proposal to amend Chapter 24 of the City Code (City Zoning Ordinance), Article I, entitled "In General," §24-1 entitled, "Definitions," Article III, entitled, "Regulations Applicable to Particular Zones," §24-22, §24-24, §24-28, §24-30, §24-43, §24-56, §24-66, §24-75, §24-102, §24-111, §24-117, §24-123, §24-136, §24-151, §24-160A, and §24-160E.2, so as to redefine accessory structures and uses, eliminate certain definitions and define certain terms, eliminate references related to signs as accessory structures, as well as revise terminology and regulations of accessory uses and structures in the R-6, R-B, C-B, R-A, R-90, R-90 Cluster, RP-T, R-20, R-18, R-H, C-P, C-1, C-2, C-3, I-1, E-1, E-2, and H-M Zones, and further to amend Article IV entitled, "Supplementary Zone Regulations," §24-163 so as to amend standards and requirements as to accessory structures and garages generally. This is the first public hearing in a series of opportunities to participate, including submission of written testimony. (A copy of the draft ordinance can be viewed at [www.ci.gaithersburg.md.us/notices](http://www.ci.gaithersburg.md.us/notices).) Contact the Planning and Code Administration staff member listed below at 301-258-6330 if you should have any questions and/or to learn more about this process and your ability to offer testimony and input.

**\*\*\*SEE REVERSE SIDE\*\*\***





Mayor and City Council & Planning Commission meetings can be viewed live on Gaithersburg Cable Television Channel 13, and at anytime, (on demand) via the Internet and Web TV at <http://www.ci.gaithersburg.md.us>

**CITY OF GAITHERSBURG**

By: *Patricia Patula*  
PATRICIA PATULA, Planner  
Planning and Code Administration

**NOTICES SENT THIS 12TH DAY OF NOVEMBER, 2003 TO:**

**APPLICANT AND INTERESTED PARTIES**

(A list of interested parties and agencies is available in the file in the Planning and Code Administration.)

**MAYOR AND COUNCIL**

**PLANNING COMMISSION**

**CITY STAFF**

David B. Humpton, City Manager  
Frederick J. Felton, Assistant City Manager  
Tony Tomasello, Assistant City Manager  
Stanley D. Abrams, City Attorney  
Mary Beth Smith, Public Information Director  
Doris Stokes, Administrative Assistant  
Jeff Baldwin, City Web Administrator (via email)

# Size limits on garages, sheds under review

by Brooke W. Stanley

Staff Writer

Limiting the size of new garages and sheds in Gaithersburg is still a possibility after a joint City Council and Planning Commission work session Monday night where council members said they had concerns about the proposed restrictions.

City staff presented the council with proposed height and size limits for detached garages and sheds. However, council members asked staff to consider adding more flexibility to the proposed building regulations.

Currently, there are no height limits on sheds and detached garages, said Fred Felton, assistant city manager. Current regulations require that the total of all accessory shed and detached garage space not be larger than 25 percent of the lot size, but this can mean that a person with a large lot can build a very large shed or garage, Felton said.

The proposed height maximum for both sheds and garages is 15 feet at the mid point of the roof's slant. The proposed size limit of a shed is 50 percent of the house's footprint size. The size limit for a detached garage would be 50 percent of the house's footprint or 576 square feet (the size of an average two-car garage), whichever is larger.

But council members said the height limit wouldn't allow enough space for a usable upper level.

"Why shouldn't they be able to have a second story — at least for storage?" said Councilman Henry Marraffa.

People may need that extra space — especially those with small homes, said Councilwoman Ann Somerset.

sion last August.

Felton said Tuesday that city staff would now focus on developing criteria the Planning Commission will use to decide what buildings will be allowed to exceed the limits.

Felton said city staff plans to make a recommendation to the council in the next couple of weeks about whether the issue is ready to go to a vote or if another work session is needed.

Somerset also said she thinks the garage size limit should take the size of the lot into account rather than just the size of the house.

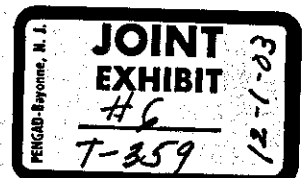
"I'm not sure that something the size of a two-car garage if you have a large lot is really appropriate at all," she said.

Council Vice President Geraldine Edens said she thinks restrictions need to keep more options open for building design.

Council members discussed allowing such flexibility by giving residents a chance to exceed the limits, so long as the building is consistent with the character of the neighborhood and is approved by the Planning Commission.

There was little public comment on the matter, but Walker Avenue resident Cathy Drzyzgula did say that the council should decide on the matter as soon as possible because some of her neighbors have put their building plans on hold waiting for the council's decision.

The council has held the record open on the matter since a work ses-



MEMO TO: Mayor and City Council  
Planning Commission

VIA: David B. Humpton, City Manager

FROM: Frederick J. Felton, Assistant City Manager

DATE: September 26, 2003

SUBJECT: Accessory Structures Text Amendment, T-354

Following the work session held August 11, 2003, staff developed the following plan to address the points raised at the meeting.

1. The text amendment should be reorganized to distinguish between accessory uses and accessory structures in each zone. The essential information would remain the same as in the revised draft, but the format would be adjusted to list the two categories separately for easier reading and comprehension.
2. The proposed regulations for the size, height, and placement of accessory structures would remain as presented at the work session and would be considered as permitted "by right" and approved by staff through the ordinary permit process as it is presently done. In summary, these are:

*The footprint of an accessory structure can not exceed 50% of the footprint of the primary structure nor can such structure exceed 15 feet in height. The footprint of a detached garage must not exceed 50% of the footprint of the primary structure or 576 square feet, whichever is greater, nor must the height of such structure exceed 15 feet.*

3. The Planning Commission would be given the authority to approve heights and sizes exceeding those mentioned above as long as the accessory structures are compatible in size, mass, scale, and materials to the primary structure and conform to the regulations of the particular zone and applicable codes.

We recommend that a new text amendment be redrafted since some of the proposals are more stringent than originally proposed at the August 19, 2002, hearing. This would require a new public hearing. The record of the existing text amendment, T-354, should be officially closed, and after 90 days of "no action" on the part of either the Council or Commission on this text amendment, it is considered denied (Section 24-197(d)). In the meantime, the new text amendment can be heard, evaluated, and hopefully approved in a timely manner. We should be able to go to public hearing in late November.

I hope this information is helpful. Please let me know if you have any objections or concerns about this approach.

fjf/sp

